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2 **UNITED STATES DISTRICT COURT**

3 **DISTRICT OF NEVADA**

4 JOSE BETANCOURT, )

5 Plaintiff, )

6 vs. )

7 NEVADA PROPERTY 1 LLC, )

8 Defendant. )  
9 \_\_\_\_\_)

Case No. 2:17-cv-02452-RFB-NJK

**ORDER**

10 On September 7, 2018, the Court issued an order setting an Early Neutral Evaluation (ENE)  
11 in the instant case. Docket No. 23. The order specified, *inter alia*, the time, date, and required  
12 personal appearances for the ENE. *Id.* at 1-2. Specifically, the Court ordered that “[a]ll counsel  
13 of record who are participating in trial” must attend. *Id.* at 1. The ENE was subsequently  
14 continued to October 4, 2018, at 9:30 a.m. Docket No. 27. The Court made clear in its order that  
15 the appearance requirements of its prior order remain. *Id.*


16 On the eve of the ENE, the parties filed a stipulation to continue the start time of the ENE  
17 to 10:30. Docket No. 28. In the stipulation, the parties represented that Plaintiff has a late-  
18 scheduled hearing in state court. *Id.* at 2. The Court denied the parties’ stipulation, and noted that  
19 a hearing scheduled after the scheduling of the instant ENE does not constitute good cause to delay  
20 the start time of the ENE. Docket No. 29.

1 Now, despite the Court's order, Plaintiff's attorney of record (Jenny Foley) has filed notice  
2 that she has a scheduling conflict arising from a later-set hearing in state court, and notifying the  
3 Court that she may arrive late to the ENE. Docket No. 30. The Court has already set aside time  
4 to conduct the ENE at the scheduled time and has already indicated those participants that the  
5 Court finds necessary to make the ENE fruitful. In addition, it is not appropriate to waste the time  
6 of the opposing party and counsel, or require them to alter their schedules on the eve of the ENE.  
7 The Court hereby **DENIES** the pending notice to the extent it seeks implicitly either (a) a  
8 continuance of the ENE to begin at a later time; or 2) an order that the ENE can begin without Ms.  
9 Foley, Plaintiff's attorney of record.

10 The Court hereby **ORDERS** Ms. Foley to appear for the ENE at 9:30 a.m. tomorrow as  
11 previously ordered. To the extent Ms. Foley has created conflicting duties for herself, she should  
12 make arrangements to either seek a continuance of the state court hearing or have another attorney  
13 handle that hearing. Notwithstanding that counsel may prefer to appear in a later-set state court  
14 hearing, she is required to appear in this Court as ordered. *See Burrage-Simon v. State Farm Mut.*  
15 *Auto. Ins. Co.*, 2015 WL 5224885, at \*6 (D. Nev. Sept. 8, 2015) (sanctioning counsel for failing  
16 to appear at a settlement conference to instead attend a state court hearing he thought was more  
17 important). **FAILURE TO COMPLY WITH THE COURT'S ORDER MAY RESULT IN**  
18 **SANCTIONS.**

19 IT IS SO ORDERED.

20 DATED: October 3, 2018.

21  
22   
23 NANCY J. KOPPE  
UNITED STATES MAGISTRATE JUDGE